Global Safeguards for Individuals Against Violence and Abuse: An Impact Assessment of The UN Mechanism for Implementation of Human Rights

SYNOPSIS

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STATE OF THE ART

Rights are those conditions of life without which no man can seek to be his best (Laski,1938). Human rights are those rights which are essential for a dignified human existence and are universally applicable and inalienable (Jack Donnelly).

Human rights are the basic freedom and protection that everyone wants and deserves irrespective of the place where they live. The concept of human rights has undergone a significant transformation from ancient civilization to modern times. Philosophers like Aristotle and Cicero laid the foundation of natural law and universal justice. Enlightenment trained its thoughts on rationalism with thinkers like Locke, Rousseau, Kant championing for right to life, liberty and social contracts. The American constitution and the French Declaration of Rights of Man are known to have laid down the foundation of human rights in the 18th century.

The central tenets of international law and global governance revolve around the concept of safeguarding human rights. The United Nations has earned the reputation of being the pivotal institution for ensuring the protection and promotion of human rights. Established in the aftermath of the Second World War, the UN considers human dignity to be of paramount importance and must be safeguarded across all nations. The adoption of Universal Declaration of Human Rights (UDHR) in 1948 along with the International Covenant on Political, Social and Cultural Rights adopted in 1966 and International Covenant on Civil and Political Rights adopted in 1966, proved to be significant milestones that articulated the shared commitment to fundamental freedoms and rights that transcend borders.

REVIEW OF LITERATURE

The proposed study finds its theoretical moorings from the available literature which includes books, journal articles and various reports contributed by experts, researchers and scholars in the field of human rights pertaining to the UN discourse. These works have provided significant insights into the role of United Nations including its organs and entities like Human Rights Council, INGOs and other statutory bodies in promoting human rights globally. The most relevant works and available literature have been reviewed as follows:

Classical Human Rights Theories

The classical human rights theories found its deep roots in political and philosophical traditions that focus on the rights of individuals as quintessential to human dignity. The theories of natural rights have been shaped by various scholars and have evolved over a number of centuries.

The Theory of Natural Rights represents an early expression of the liberal perspective on rights that gained currency in the 17th and 18th century. According to this theory, rights are not granted by the state but they are inherent in the very nature of man. This theory was broadly developed on two important bases:

A. Contractual basis -

Hobbes in his social contract theory postulates unconditional surrender of natural rights and deprecates natural rights as the freedom of the stronger to oppress the weaker which is justified under the garb of self-preservation. On the other hand, John Locke postulates that man surrendered only some of his natural rights, particularly the right to be the judge of his own acts, on the condition that his fundamental natura rights i.e. the rights to life, liberty and property shall be protected by the state and if the state failed to protect these rights, man had the right to overthrow the government and set up a new government.

B. Teleological Basis— Doctrine of the Final Cause

The teleological view of rights seeks to relate the rights of a man with the purpose of human life. These rights do not depend on any institutional arrangements, but ensure the shaping up of the very nature of man and serves the purpose of his life.

Thomas Paine (1791) enunciated the theory of natural rights on the teleological basis. Paine rejected the doctrine of social contract as it was binding and therefore it militated against progress. According to him, the right to liberty, property, security and resistance of oppression, derive their sanction from the natural rights 'pre-existing in the individual'.

Jack Donnelly (2013) examines how human rights have developed, what they mean and how they are applied in the real world. He defines human rights as universal meaning they belong to everyone and are inalienable, meaning they cannot be taken away, and indivisible, meaning all rights are equally important and connected. Donnelly talks about how the idea of human rights has grown over time, beginning with early philosophical thoughts and eventually becoming part of international laws. He mentions important events, like the creation and coming into force of the Universal Declaration of Human Rights (UDHR) and other international agreements which have helped shape how we perceive human rights today. A major topic in Donnelly's book is the debate between cultural relativism and universal human rights. He explains that while cultural traditions and contexts are important, they should not be used to excuse violations of basic human rights. Donnelly believes in a balanced approach—one that respects cultural diversity but also protects core human rights. Donnelly discusses the difficulties in making sure human rights are protected. He points out problems like state sovereignty, where countries resist outside involvement, and a lack of willingness from governments to address human rights abuses. He also emphasizes the role

of organizations outside the government, such as NGOs and civil society groups. Groups like Amnesty International, Human Rights Watch, and the Red Cross play an important role in raising awareness, helping people impacted by human rights abuses, and making sure governments are held accountable.

Mary Ann Glendon (2001) traces the developments that enabled the Universal Declaration of Human Rights (UDHR) see the light of the day especially Eleanor Roosevelt's key role in its creation. She also expatiates upon the key principles of UDHR, such as respect for human dignity, equality and the rejection of discrimination. Glendon discusses how cultural and political differences shaped the debates during its creation, especially regarding individual versus collective rights. Despite these challenges, Eleanor Roosevelt's leadership and diplomatic skills helped to create a strong declaration that nations across the globe could support.

Johanna Frohlich (2019) uncovered the historical development of human rights from the establishment of UN in 1945 to the present challenges and achievements in the field. Frohlich also mentions that UDHR is a cornerstone document in articulating fundamental human rights. She contended that various UN bodies and mechanisms such as the Human Rights Council, Treaty Bodies and special rapporteurs played a very important role in protecting and promoting human rights and these bodies have gradually evolved for the purpose of monitoring compliance with human rights standards. Frohlich in her writings also criticizes the effectiveness of UN in promoting and enforcing human rights. She highlights several specific contexts such as the Rohingya crisis in Myanmar where state sovereignty led to resistance against human rights interventions and the ongoing civil war in Syria where the UN failed to take decisive action against the Assad regime despite gross violations of human rights.

Thomas G. Weiss (2007) outlined the historical genesis of humanitarian intervention which began with Greece in the 1820s. He also discusses cases like NATO intervention in Kosovo in1999.The main theme of his writing revolve around the interplay between moral imperative of the intervention and the political realities. Weiss emphasizes that for humanitarian intervention to be effective, a balance must be maintained between the ethical obligation to safeguard vulnerable people on the one hand, with the complexities of international politics on the other. He also examines the legal basis for these interventions, particularly the guidelines established by the United Nations.

M. Cherif Bassiouni (1998) talks about the need for a comprehensive approach regarding human rights that includes the rights and needs of victims in the pursuit of justice. He claims that the

traditional law has often ignored the needs of the victims. Despite having a provision for protection of victims in international humanitarian law, these have not been adequately implemented or recognized. Bassiouni mentioned specific rights that should be provided to victims such as the right to access justice and to be heard in legal proceedings, the right to obtain reparations, including restitution, compensation and rehabilitation. He mentions several legal instruments that have contributed to the recognition of victim rights such as The Declaration of Basic Principles of Justice for victims of crimes and Abuse of Power (1985) and The Rome Statute of International Criminal Court (1998). Bassiouni specifically discusses the Rwandan genocide and claims that efforts were made to address the needs of victims through community-based justice mechanisms, such as Gacaca courts, which created a platform for victims to be heard and compensated.

Philip Alston (1992) had mentioned both the strength and limitations of the United Nations pertaining to protection of Human Rights. He also shows his concern for the need to reform in order to enhance the UN's capacity to address human rights globally. Alston further mentions that the human rights agenda has evolved over the decades reflecting changing global dynamics and priorities. He also highlights the achievements of Human Rights Council (HRC) and Human Rights Committee in raising awareness, making recommendations and flagging the limitations in enforcing compliance. Alston further talks about the factors that adversely impact upon the effectiveness of human rights mechanisms such as lack of political will, resistance to scrutiny and limited resources of UN impacting its ability to carry out proper investigations.

Richard Falk (2008) assessed the political, legal and ethical consequences of US invasion of Iraq in 2003. He mentions that invasion leads to violation of international law and undermines the authority of the United Nations. He further countered the effectiveness of the UN in preventing international interventions and aggressive wars and emphasized the need for a stronger international legal framework which would consequently lead to the creation of a more peaceful and cooperative global order.

Amnesty International provides critical data and insights on various human rights issue**. "The Report you can't see me" (2016)** describes the horrific condition of torture in prisons including overcrowding, lack of medical care, and extreme physical abuse during the Syrian civil war. **Amnesty International report "They Just Kill" (2017)** revealed the extrajudicial killings of suspected drug offenders by police without any trials in the Philippines under president Rodrigo Duterte. **Amnesty International report "We Are At Breaking Point" (2017)** reveals the atrocities by the Myanmar military against the Rohingyas including unlawful killings, sexual violence, and forced displacement. This led to fleeing of 700,000 Rohingyas to Bangladesh.

Sharon D. Sutherland (2019) provides a critical assessment of the impact of technology upon human rights. He mentions that digital technology has the potential to enhance human rights by

facilitating communication and access to information but at the same time it poses serious threats to these rights as a result of increased surveillance by the government and corporations, invasion of privacy, curtailment of freedom of expression by censorship and increase in cybercrime. Sutherland also mentions the need for robust laws and regulation that addresses issues such as online harassment, misinformation and data protection.

John Knox (2018) shows the complex relationship between climate change and human rights and mentions that climate change is not only an environmental issue but it also threatens basic human rights such as right to life, health, food, water and housing which leads to migration, displacement, hunger malnutrition etc.

Hurst Hannumbas has given numerous suggestions to strengthen human rights mechanisms such as to enhance the capacity and authority of regional and international human rights bodies to monitor compliance and enforce human rights standards that focus on increasing resources and support for treaty bodies and special rapporteurs. Hannum also recommended to pay special attention to the rights of the marginalized and vulnerable populations including women, children, refugees and LGBTQ+ individuals because of their unique challenges.

Adib Bencherif, Aurelie Campana and Daniel Stockemer in their journal **"Lethal violence in civil War: Trends and Micro-Dynamics of violence in the northern Mali conflict"** provide an depth analysis of the patterns and underlying dynamics of violence during the civil conflict in northern Mali. The author tries to examine the trends in lethal violence, focusing on various actors involved, including state forces, rebel groups, and jihadist organizations. They identify the significant fluctuations in the levels of violence throughout the conflict, noting peaks during specific events such as the Tuareng rebellion and subsequent interventions by external forces. They also analyzed the spatial distribution of violence, highlighting the certain regions experienced more intense conflict due to local grievances, resource competition, and historical tensions. They also assessed the impact of international intervention particularly the French military operation in 2013 aimed at combating jihadist groups and restoring order. The authors argue that while such interventions can temporarily reduce violence, they may not address the root causes of the conflict or lead to sustainable peace. Furthermore, the article highlights how local grievances related to governance, marginalization and identity politics contribute to the perpetuation of violence. It emphasizes the need for inclusive political solutions that address these underlying issues to foster long-term stability.

Denis. M. Tull and Claudia Simons in their article **"The unforeseen 2012 crisis in Mali: The diverging outcomes of increased military capacity"** examine the complex dynamics responsible for the crisis in Mali in 2012, especially focusing on how increased military capacity influenced the situation. The authors mention that despite the intention of the Malian government to enhance

its Military capacity under the assumption that a stronger military would enable it to effectively combat threats posed by terrorist group and separatist movement especially in northern Mali, the increased military capacity did not yield the desired outcomes of stability and security. Instead, it created a series of unintended consequences that led to the deterioration of the political landscape. Tull and Simons emphasizes that while strengthening military capacity may seems like an immediate response to crisis, it is crucial to take into account the broader political context and invest in sustainable governance mechanisms to achieve lasting peace and stability in regions like Mali. They advocate for a more integrated approach that combines military efforts with political reforms and community to engagement to address the underlying factors contributing to conflict.

Heni Nasaibia in her article **"The influence of the crisis in the Republic of Mali on the strategies of AQIM"** analyzes how the political and security turmoil in Mali, has shaped the strategies and operations of Al-Qaeda in the Islamic Maghreb (AQIM). The journal highlights the events leading up to the crisis, including the Tuareg rebellion and a subsequent coup that created a power vacuum in northern Mali that AQIM exploited. AQIM was able to reinforce its presence in the region, with the collapse of effective governance, engaging in activities such as kidnapping for ransom and drug trafficking to fund its operations. Nsaibia argues that the collaboration of Tuareg rebels and AQIM allowed AQIM to gain legitimacy among certain segments of the population while advancing its jihadist objective the establishment of quasi-governmental structures based on the interpretation of sharia law. The article also discusses the increased presence of AQIM in Mali Contributed to rising instability and violence in neighboring countries like Burkina Faso and Niger. Nsaibia also mention about the international response, particularly the French military intervention in 2013, which aimed to reclaim territory from Islamist groups and restore stability. However, he notes that while this intervention temporarily disrupted AQIM's operations, it did not address the underlying issues that allowed such groups to thrive.

PROBLEM TO BE INVESTIGATED

Some of the potential research gaps that shall be considered as part of the proposed study are as follows:

While there is sufficient literature available on the establishment and functioning of the UN and the available mechanisms for protection and promotion of human rights, there are limited empirical studies to assess the actual impact of these legal mechanisms for safeguarding human rights. This research should focus on case studies to assess the effectiveness of these mechanisms in specific regions particularly in Libya, Iraq, Rwanda, and the ongoing conflicts between Russia-Ukraine and Israel-Palestine.

The review of literature suggests that current research does not sufficiently address how different identities like race, ethnicity, gender and sexual orientations intersect and affect individual's experience with UN human rights mechanisms. Therefore, the proposed study shall seek to assess how intersectionality influences the implementation and enforcement of human rights.

Terrorism, Digital Privacy, Climate Change and Global Health Crisis are the emerging issues that pose a new challenge for human rights. In-depth analysis of the United Nations and its human rights mechanisms for implementation of human rights and for responding to these contemporary challenges could bridge the gap in policy formulation and implementation.

Though there is extensive work done on global human rights norms, comparative studies that focus on regional variations in human rights implementation have not been adequately dealt with. For, instance, the response to human right violations in Palestine-Israel is different from that in Russia-Ukraine war due to political, cultural and geopolitical contexts. This research will explore the various reasons which lead to regional variation in human rights implementation.

OBJECTIVE OF THE INVESTIGATION AND MOTIVATION

Objectives

- The research aims to explore how the United Nations has played a role in creating and promoting global human rights standards through conventions, treaties, and other initiatives.
- This research focuses shall assess the performance and achievement of the United Nations in protecting human rights globally with special attention to its peacekeeping missions and the "Responsibility to Protect" (R2P) principle.
- A key focus of the proposed research would be on understanding how contemporary challenges such as digital privacy issues, climate change, and terrorism are influencing the UN approach towards human rights.
- The proposed research aims at examining the role and contribution of non-state actors like NGOs, INGOs and civil society groups that are providing assistance to the United Nations in promoting human rights and ensuring that governments take responsibility for their actions.
- It also aims to find practical ways to improve how the UN handles human rights challenges in today's world.

Motivation

This research shall explore the aims, objectives and strategies adopted by the United Nations in order to support and protect human rights over the years. The proposed study shall also analyze the challenges that the UN is still grappling with. One of its biggest achievements is the creation of the Universal Declaration of Human Rights (UDHR), which serves as an important guide for safeguarding human rights across the globe.

However, a lot of ground needs to be covered even now. The UN is dealing with serious problems such as genocide, refugee crises and human rights violations in areas affected by the conflict. This study focuses on understanding these issues, examining how the UN has responded so far and finding ways to improve its efforts towards protecting human rights in the future. These include dealing with issues such as genocides, refugee crises and human rights abuses in conflict zones which highlight the need for a deeper understanding and evaluation of its efforts.

The urgency of addressing new challenges like digital surveillance, privacy breaches, and the effects of climate change further drives this study. These challenges are changing the way we think about human rights around the world. It's more important than ever to find new and creative ways to protect the rights of people who are often ignored or left out.
This research looks at real-life examples and focuses on issues that affect different groups in unique ways. The goal is to create simple and fair solutions that make sure everyone, no matter who they are or where they come from, has their rights respected and protected.

RESEARCH QUESTIONS

- What are the achievements in the development of human rights norms within the United Nation framework?
- What are the key milestones of the UN in protecting and promoting human rights across the world?
- What are the shortcomings of the United Nation in addressing human rights violations?
- What role non-state actors such as NGOs, INGOs and civil society play in influencing human rights initiatives and accountability mechanisms of the United Nations?
- What are the reforms that are required to enhance the effectiveness of UN and its human rights mechanisms in the 21st century?

HYPOTHESES

- The United Nations has been successful in building consensus among the nation-states for safeguarding human rights by means of implementation of conventions and agreements.
- The frequent conflict among nation-states has been a major factor in the violation of Human Rights.
- To some extent United Nations has been successful in protecting the human rights of citizens.
- The United Nations has been selective in advocating the human rights of people because more often than not, it is guided by the interest of Western Countries.

RESEARCH METHODS

The proposed study will be based on primary as well as secondary sources and will cover a mixed-methods research design combining both qualitative and quantitative approaches to provide a comprehensive analysis of human rights. Quantitative as well as Qualitative approaches will help in a deeper understanding of both the statistical trends and contextual narratives surrounding human rights successes and failures.

Qualitative Data through review of UN documents including reports of the Human Rights Council, treaties and resolutions related to human rights will help to identify key themes, challenges, solutions, and achievements of the UN human rights agenda.
Interviews will be conducted with experts as well as NGOs involved in human rights advocacy. This will provide insights into the immediate effectiveness of UN human rights initiatives as well as their long-term impact.

Quantitative data will include an online survey with practitioners in academics, activists in the field of human rights and will gather data on perceptions of UN's effectiveness.
Secondary data will be collected from existing institutions like Amnesty International and Human Rights Watch that track human rights violations globally. This data will help to identify trends and patterns of violence and exploitation over time and their correlations with UN interventions.

The proposed research for the purpose of collection of data will include mainly non-probability sampling methods: -
Purposive or Judgmental Sampling: The Proposed Research will utilize Purposive or Judgmental Sampling for the selection of experts who possess substantial knowledge and

experience in the field of Human Rights. This method will ensure that only those individuals who can provide in-depth and relevant insights are included, thereby enhancing the quality and reliability of the research findings. The selection of experts will be based on their credentials, expertise, and contributions to the domain of Human Rights, ensuring a well-informed and comprehensive perspective.

Snowball Sampling: The Proposed Research will also employ Snowball Sampling to further extend the pool of subject experts who can provide additional insights on Human Rights. This approach will be instrumental in identifying and reaching individuals who may not be readily accessible but possess valuable knowledge in the field. By leveraging recommendations from initially selected experts, the research will progressively expand its network of participants, ensuring a more diverse and enriched understanding of human rights.

TOOLS TO BE USED IN COLLECTION OF DATA

The proposed research shall use the Questionnaire for data collection methods in which a set of written questions are structured and it can be conducted through tools like Google Forms, mail, and paper form with the help of multiple choice or rating scales. The proposed study shall also collect in-depth qualitative data through the interview which allows researchers to gain insights into respondents' thoughts, either in face-to-face or through online mode. Approximately twenty interviews shall be conducted with which I will be supplementing my secondary data. The study will also include several case studies based, on their relevance to current global issues, that assess both successful and unsuccessful human rights interventions by the UN. Secondary data analysis of existing Literature, Newspapers, reports, and journals on human rights gives a comprehensive foundation by offering insights into established trends, patterns, and historical contexts. It also allows us to identify gaps in the literature.

SIGNIFICANCE OF THE STUDY

The proposed research aims to understand how human rights have evolved within the UN framework since its inception. The study also helps to evaluate the effectiveness of the UN in promoting human rights. This evaluation helps us to identify the areas needing improvement and contributes to ongoing debate about the UN’s role in the protection of human rights globally.

The proposed study will also help to understand the contemporary challenges facing human rights such as authoritarianism, discrimination, and terrorism by examining the case studies of successful interventions and notable failures.

ANALYSIS OF DATA

In the proposed research, the analysis of data will encompass both qualitative and quantitative methodologies. To analyze the collected data obtained through judgment sampling, basic mathematical and graphical tools will be employed, including percentages, pie charts, bar graphs. All quantitative tools will be utilized based on their appropriateness for the nature and requirements of the research. For research questions involving textual data obtained through judgment sampling, a qualitative approach will be adopted, with a focus on discovering genuine meanings and exploring new perspectives.

RELEVANCE TO THE PRESENT-DAY PROBLEM AND NEED TO THE SOCIETY

The understanding of the effectiveness of United Nations human rights mechanisms becomes very crucial when global challenges such as authoritarianism, discrimination and humanitarian crises, like mass surveillance, refugee displacement and suppression of dissent continue to threaten human rights.

Moreover, in an increasingly globalized world, contemporary issues such as the COVID-19 pandemic, climate change and rising terrorism, have uncovered the vulnerability and inequalities, which in turn, has increased the hue and cry for a comprehensive and robust approach to human rights that transcends borders. By examining the UN's role in this landscape, this study shall seek to provide strategies to promote social justice and empower marginalized communities ultimately contributing to a more equitable and humane global society.

CONTRIBUTION TO EXISTING KNOWLEDGE

The proposed research on human rights can significantly enhance the existing knowledge by providing a critical assessment of the working of the human rights mechanisms, evolving a framework for analyzing their successes and failures and presenting the empirical case studies that support or challenge the current theories. This research shall also identify gap in the existing research and thereby select the area for future exploration, contributing to the ongoing academic dialogue surrounding human rights. In a nutshell, the proposed research on human rights can significantly advance the existing knowledge base by presenting critical insights, empirical

evidence, and feasible solutions and recommendations that address both practical and theoretical aspects of human rights within the United Nations framework.

FUTURE WORK

This research offers a comprehensive study of the efforts of the United Nations in promoting and protecting human rights, providing valuable insights and opening avenues for further exploration.

One key area for future research is the comparison between international and regional human rights systems. The framework of the proposed study can be used to examine how cultural and political contexts influence the effectiveness of human rights mechanisms. Researchers can also focus on case studies of specific regions or conflicts, such as Syria, Rwanda and Ukraine in order to understand the factors that determine the success or failure of interventions.

Another important focus is intersectionality. This research highlights how race, gender and other identities shape the experiences of individuals with human rights. Future studies can build on this by investigating how human rights policies can be adapted to cater to the needs of marginalized groups.

Emerging issues like digital privacy, climate change, and terrorism also present opportunities for further research. This study identifies these issues as critical challenges to human rights, encouraging future scholars to assess the UN's responses and propose new strategies to address these global problems.

Finally, the study's recommendations for reforming UN human rights mechanisms can inspire deeper investigation into institutional improvements. Researchers could evaluate these suggestions or develop alternative frameworks to enhance the UN's ability to enforce human rights effectively.

By addressing these areas, future studies can contribute to a more robust and inclusive human rights framework, advancing both the theoretical understanding and practical implementation of global human rights initiatives.

TENTATIVE CHAPTERIZATION

Introduction: Historical Context of Human Rights

1. UN Framework for Human Rights: Mechanisms and Instruments of UN to Promote and Protect human rights

2. Emerging issues in human rights

3. Human Rights Violation in Mali: A Case Study

4. Assessment of the role of the UN in safeguarding Human Rights

5. Envisioning the Future of Human Rights through the Conduit of the United Nations: Suggestions and Recommendations

Conclusions

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